"CHILD CYBER ABUSE: AN ANALYTICAL STUDY OF LAWS RELATING TO PROTECTION OF CHILD FROM CYBER ABUSE IN INDIA"

A

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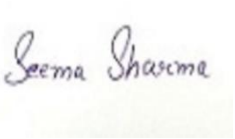
Candidate's Declaration

I, **SEEMA SHARMA**, declare that the synopsis entitled, "**CHILD CYBER ABUSE: AN ANALYTICAL STUDY OF LAWS RELATING TO PROTECTION OF CHILD FROM CYBER ABUSE IN INDIA**" being submitted in the partial fulfilment of the requirement for the award of the degree of Doctor of Philosophy in Law under ICFAI Law School, The ICFAI University, Dehradun during the academic year 2022-23.

It is the work that is expected to carried out under the supervision of Dr. Ashish Kumar Singhal. It is further declared that the synopsis is within the plagiarism limit and copy of the same is attached as per the University norms.



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Further, it is It is certified that the synopsis is within the plagiarism limit and copy of the same is attached as per the University norms.

A. K. Singh

Signature of the Supervisor in full

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Abstract:

The information technology is the fastest growing scientific and technological development in the world. Of All the significant advances made by mankind till date, probably the most important is the development of information technology. This technological progress through advent of internet undoubtedly has brought in substantial benefits to the society. The wide variety of information that can be transferred, the open and unregulated nature of the internet, and the irrelevance of geographical boundaries means that the internet provides fertile ground for criminal ventures/activities. As the transactions accomplished through electronic means have created new legal issues the law naturally has to keep pace with the needs of changing society. The rapid technological advancements clearly threaten to leave the law behind. However, law as the regulator of human behaviour is trying to catch up with the cyber space and trying to cope with its manifold challenges but cyber offences against children are till now not under control. This research will suggest some important measures which are required to be taken in order to curb cyber abuse against children.

INTRODUCTION:

CHILD CYBER ABUSE:

The term "child cyber abuse" has no specific definition. Any abuse that takes place online qualifies. Any web-connected device, including PCs, tablets, and mobile phones, is susceptible to it. Additionally, it can occur anywhere on the internet, including on social media, in text messages and messaging applications, emails, online chats, online gaming, and live streaming websites.

Several laws exist in India to protect children from online abuse, but regrettably some offences, such as child cyberbullying, have not been specifically addressed. Even the age defined in the amended Act of 2008 raises questions because, despite the social networking sites' rules and age restrictions while using them, there is no perfect way to determine a user's age. Even the definition of the word "kid" varies depending on the context.

There are certain gaps in the law, thus comprehensive legislation is needed to protect youngsters.

CHILD ABUSE:

Child abuse or maltreatment, in the words of the World Health Organization, "constitutes all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment, or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development, or dignity in the context of a relationship of responsibility, trust, or power."

Child:

The Juvenile Justice (Care and Protection of Children) Act, 2015 defines a child as "a person who has not attained the age of eighteen."

According to The Protection of Children from Sexual Offenses Act, 2012's Section 2(d), "child" refers to anyone under the age of 18.

The Prohibitions of Child Marriage Act of 2006 defines a child as a person who, if a male, has not reached the age of twenty-one and, if a female, has not reached the age of eighteen.

The Child Labor (Protection and Regulation) Act of 1986 defines a child as a person under the age of fourteen under Section 2(ii).

A child is defined as "a person who has not finished his fifteenth year" in the Motor Transport Workers Act of 1961, which aims to regulate the working conditions of motor transport workers.

According to The Protection of Children from Sexual Offenses Act, 2012's Section 2(d), "child" refers to anyone under the age of 18.

Research Problem:

However, the scope, gravity, and tendencies of the issue have not been recognized in India or many other nations. Children are becoming more susceptible to more and different types of abuse as a result of the expanding complexity of life and the significant changes brought about by socio-economic transformations in India. Even if numerous laws have been passed in this regard, the victimization of children has increased with the introduction and growth of the internet, and it can only be reduced via community efforts and stringent rules that are on pace with worldwide norms.

- When youngsters use these social networking sites, they do not precisely abide by the rules and conditions of the sites that relate to the user's age. For example, anyone may create a Facebook profile by entering the inaccurate age information. Another issue is that the Indian Constitution's protections for free expression allow social networking sites, Internet service providers, and wrongdoers to easily evade responsibility.

• Although there is no specific regulation in India to address bullying in schools, bullying must stop immediately. Only Section 354 A of the IPC discusses physical harassment; however, this section only provides protection for women, not for men. There is no explicit law that allows for the forceful prosecution of child cyberbullying. It is challenging to provide justice promptly because of the convoluted and ad hoc nature of the laws relating to child abuse.

•The research's findings will be beneficial to society because they attempt to analyse existing laws critically and place a focus on enacting comprehensive legislation.

Legal Framework to deal with cybercrimes in India:

- **Information Technology Act, 2000 (IT Act)**
- Section 66B: This clause establishes the penalty for receiving computer or communication equipment that has been obtained unlawfully and confirms a potential three-year prison sentence. A punishment of up to Rs. 1 lakh may also be imposed, depending on how serious the offence is.
- The principal subjects of Section 66C include digital signatures, password hacking, and other forms of identity theft. A maximum punishment of three years in prison and a fine of one lakh rupees are associated with this clause.
- Section 66D: This section addresses exploiting computer resources to impersonate someone else while cheating. The maximum sentence for conviction is three years in prison, and the maximum fine is Rs. 1 lakh.
- Publishing or sending pictures of private locations without the owner's consent is a violation of Section 66E.
- Section 67 B: One of the key sections of legislation offering protection for online actions is this one. This law recognises offences against children committed online. The following offences are considered crimes against minors under the statute. Child pornography, offensive material, or material that depicts children participating in sexual conduct in any electronic device.

Indian Penal Code, 1860 (IPC)

The following IPC sections can be used by law enforcement agencies if the IT Act is insufficient to address cybercrimes:

- Section 292: It was first designed to deal with the sale of pornographic materials, but in the digital era, it has expanded to now cover various cyber offences. This section also applies to the electronic dissemination of young people's sexually explicit or pornographic acts or adventures
- Section 354C: Under this rule, it is illegal to take or distribute pictures of a woman's intimate parts or behaviour without getting her permission.
- Section 354D: This Section defines and addresses stalking, including stalking that occurs both offline and online. Cyberstalking is the act of contacting a woman despite her lack of interest or following her via technology, such as the internet or email.

POCSO Act, 2012: The POCSO Act's Section 11 defines sexual harassment. Anyone who regularly approaches a child via any form of electronic communication or makes threatening to use the child's body or involve the youngster in sexual activity—whether such threats are true or made up—is engaging in sexual harassment. The legal restriction against utilising children for pornographic purposes is outlined in Section 13 of the POCSO Act. The Act's Section 14 outlines penalties for employing a youngster in a pornographic manner.

Data Protection Bill 2021 The law provides several privacy safeguards for kids. One of the most important provisions is that a data fiduciary cannot process a child's personal

information without the guardians' approval. Further, it advises data fiduciaries who only deal with children to register with the data protection authority.

Children's data surveillance, monitoring, and processing in a way that harms children is prohibited for data fiduciaries.

The protection of children's online privacy is the main objective of this draught legislation, which is based on a report by a joint parliamentary committee that makes amendments to the 2019 data protection bill that are essential.

Digital India bill 2023

This new legislation has been designed to establish comprehensive oversight over India's digital landscape, effectively tackling contemporary challenges like cybercrime, data protection, deepfakes, competition among internet platforms, online safety, and the negative impact of artificial intelligence.

Amendments in laws to deal with cyber abuse:

- **The Indian Penal Code, 1860**

Prior to 2013, no law directly dealing with online harassment or crimes pertaining to women in the cyber space. The 2013 Criminal Amendment Act to the Indian Penal Code, 1860 by way of Section 354A to Section 354D

- **IT Act Amendment 2000**

LITERATURE REVIEW:

1. **Cyber Law Indian & International Perspective By Aparna Viswanathan:**

• This book covers a wide range of topics related to cyber law, including Indian and international perspectives on important issues including data security, intermediary liability, obscenity and child pornography, and cloud computing. The right to privacy in the context of cyberspace was the topic that received the greatest attention.

Research Gap

Although the author of this book focused on the right to privacy in the context of cyberspace, they made no mention of children's privacy or the violation of their human rights.

2. **Protection of Children on Internet ByKarnika Seth:**
   • The focus of this book was on how the Internet affects children, which is a major concern for all parties involved, including parents, educators, law enforcement, and internet service providers.

Research Gap:
Despite being concerned about the negative effects of the internet on youngsters, the author of this book did not offer any recommendations for protective measures.

3. **B.S. Shivashankar &Aswathy Rajan (2018) in their research paper on, "A Critical Analysis of Cyber Bullying in India-with Special Reference to Bullying in College"**
   • learned that there are many ways to commit a cyber offence, like Cyberbullying, which can be horrifying in the future if no laws are made or are amended, which must be done in accordance with the mentality and disposition of the children who are the main victims of it. Few Indian laws are properly outlined for cyber offences, but still many offences have not been discovered yet.

   Research Gap: Although the author of this book clearly characterized the various types of cyberbullying and outlined the gaps in current legislation, she made no recommendations for how to stop this abuse of children.

4. **A Practical approach to Cyber Laws - by Mani:**
   • This book explored the Indian legal system's efforts to safeguard Indian citizens' online safety. It went into great detail regarding the different types of cybercrimes, the admissibility of digital evidence, and the way courts view cyber cases. A useful resource for many case studies of cybercrimes in India is this book. Additionally, it covered the Information Technology Act of 2000 and all of its regulations, guidelines, and other requirements.

   Research Gap: This book provides useful information regarding the rules that are in place to deal with cybercrimes in cyberspace and acknowledges the use of digital evidence in such cases, but it is quiet about children's safety online.

5. **Network Security : A Hacker's Perspective By Ankit Fadia:**
   This book is a great resource for learning about cyber criminal strategies and how to combat them. Everyone should place the highest priority on learning about network security. This book explored numerous network security concerns and offered best techniques for securing them.

   Research Gap: Although the author of this book skillfully described the methods employed by criminals and provided an outstanding manual for combating such crimes, she sadly showed little concern for the infringement of children's online rights.

6. **Criminal Court Handbook by Haresh A. Shukla** 2013, Publisher : Kamala Publication House, Rajasthan This book widely discussed all three major acts, The Indian Penal Code, 1860, The Code of Criminal Procedure, 1973 and The Indian Evidence Act, 1872 with latest amendments and commentary.

   Research gap: This book basically talks about the existing legislation to deal with cyber crimes but does not concerned about need of enacting legislation to protect children from cyber abuse.

7. **Council of Europe Convention on Cybercrime**:

It is the first international agreement that binds nations in the same way as a treaty and addresses a variety of crimes perpetrated over the Internet and other computer networks. According to the Convention on Cybercrime, "child pornography" refers to any visual representation of children or people who appear to be minors engaging in sexually explicit behaviour. This includes genuine images of a juvenile as well as materials with actual or recognisablyrecognisable children, which may allow for the prosecution of hoaxes and digitally altered images of adults that, for instance, portray a young adult as a child.

Research gap: This convention focused on child pornography and provided a clear definition of the term, but neglected to address other crimes like cybercrime.

8.**Indian government initiatives on cyberbullying: A case study on cyberbullying in Indian higher education institutions:**

Discussion on cyberbullying in Indian higher education institutions: This case study revealed that, with the exception of a small number of respondents who either lack internet connectivity or personal devices, 97% of respondents in higher education institutions own electronic devices. Even in the UNICEF case study, it was shown that mobile phones were used by 99 percent of internet users aged 12 and older in both urban and rural areas. The most popular social networking platforms that make them more susceptible to experiencing cyberbullying are WhatsApp and Instagram. The participants' comments show that they are not very familiar with the phrase "cyberbullying," the legal restrictions, and other governmental regulations against it.

Research gap:

The word "cyberbullying" is the focus of this case study, which also examined the current state of children's knowledge of their online rights but was limited to a single offence, leaving a gap in the analysis.

9.Internet Addiction A Handbook and Guide to Evaluation and Treatment by Cristiano Nabuco de Abreu and Edited by Kimberly S. Young: •

Internet addiction is a relatively recent problem, and while research has shown that it is becoming a rising health care issue, scientific knowledge of the issue is still developing. The first thorough compilation of the most recent findings to address this emerging issue is Internet Addiction: A Handbook and Guide to Education and Treatment. This book addressed the various forms of internet addiction and its effects on social life and health. Additionally, it included several psychological approaches to treating addiction as well as methods for assessing addiction.

Research Gap:

Although this book mostly discusses internet addiction and how it affects people, it makes no specific mention of child cyber abuse, a growing issue in today's society.

10.Cyber Laws ByDr. Gupta & Agrawal:

Anyone who is just starting out should read this book. It began with a discussion of computer basics before moving on to topics like encryption technology, contractual and evidential aspects of cyber laws, intellectual property rights in the digital age, consumer protection online, etc. It was mostly concerned with cybercrimes and the 2000 Indian Information Technology Act's flaws.
Research gap: The author of this book focused on internet concepts, legal loopholes, and the evidence-based nature of cyber laws but did not discuss the reforms that are necessary for our system.

RESEARCH GAP

There is a wealth of literature on children's online privacy. As the internet develops, it also presents new difficulties to its users. Children face serious risks from the internet because of its anonymity. Developed nations like the US, UK, and EU face several difficulties from predators, paedophiles, and online bullies in their individual domains. The literature on children's rights in the digital age and online kid safety has expanded significantly in the 21st century. This study intends to close the following research gap by using the background of the research problem and literature review as foundations.

Comprehensive legislation in India is required due to the following reasons:

• The laws now in place do not adequately address the growing problem of child online abuse in India.

In the event that child safety rules are broken, social networking sites and Internet service providers ought to be held strictly liable.

The term "kid" needs to be defined consistently so that wrongdoers can be brought to justice without the involvement of the legal system.

There is a need for distinct legislation to address specific offences, such as cyberbullying.

CONCLUSION

Undisputedly several studies have delved into the matter of child cyber abuse and how it differs from other abuse and how the two cannot be treated as one and the same, but none have investigated the mention gap.As a result, the current study attempts to close this gap by critically examining the current legal framework and the feasibility of furthering transformation in this field.

RESEARCH OBJECTIVE:

- Understanding the notion and breadth of child cyber abuse is important, as is determining why the Indian government did not see the need to pass legislation to create sanctions or measures that can be enforced on offenders for a crime of child abuse by cyberspace.
- To investigate the patterns of kids' online behavior through a public campaign and poll.
- To assess India's current information technology infrastructure in order to stop threats against children made online.
- To efficiently prevent and analyse internet threats against children in India, as well as to provide corrective steps for the country's information technology infrastructure
- To advocate for treatment and rehabilitation facilities for children who have been harmed online. Analyze the effects of various laws and the scope of responsibility under those Acts with regard to cyber abuse.
- To evaluate the impact of court decisions and committee findings on child abuse and to suggest the need for a Sanctioning Advisory Structure.
- To conduct a comparison of nations with settled law and those without it in this area.
- To assess the necessity for and viability of developing comprehensive child safety online provisions.

Research Question:

1. What is Child cyber abuse and what types of acts amount to this offence?
2. What is the reason for not adopting specific legislation with regards to safety and privacy of children in cyberspace despite Indians experience various offences in daily life?
3. Whether the existing framework is sufficient in dealing with the issue of cyber abuse?
4. Are social networking sites becoming the platform for children's victimization? What are the concerns of parents on increase of victimization of children on social networking sites? What are the most types of issues children face while using the internet?
5. What is the underlying principle that guides the court in adjudicating the matter of child cyber abuse?
6. Are the countries with settled laws more successful in preventing the occurrence of abuse in cyberspace?

Significance of the study:

While earlier studies have concentrated simply on the various forms of child abuse without considering the necessity for explicit legislation to address child abuse in cyberspace, this study is unusual in that it highlights gaps in the law that have previously gone unnoticed. Furthermore, the Indian government is worried about creating a precise legislative structure in this field even though much has been done or apparent progress hasn't occurred for whatever reason. The research will therefore be important not only in terms of research but also in terms of practical application, since it may help the government come up with a plan for advancing the issue in this respect.

Scope of Research:

The researcher will concentrate on the viability of passing a codified law for the prevention of child abuse in cyberspace and the negative consequences of this.

The study's focus will be on critically analysing current regulations pertaining to children's privacy and cyber security laws, highlighting any gaps in those regulations so that understanding and strict regulations can be created to avoid child abuse online.

H Y P O T H E S I S:

- • The frequency of child suicides and health problems has increased in India as a result of the absence of explicit legislated laws against child cyber abuse.

  • The legislative structure in place to prevent child abuse is insufficient for a child's protection and growth. Adopting stringent legislation is necessary with regard to child abuse in general and with regard to child cyber abuse in particular. The fact that crimes against children are grossly underreported shows how little importance parents, carers, and the police have on them.

- As prevention of child cyber abuse legislation evolves, it will not only fill the void left by the lack of an appropriate remedy but will also make it easier to safeguard various children from online harms.

- **Research Methodology:**

✓ Complementary techniques will be used to meet the goal of the planned study activity on "Protecting Children on the Internet." Both descriptive and exploratory research methods will be used by the researcher. Descriptive research will be used because the researcher is more interested in what attributes of the phenomenon being examined, or the "what" of the study subject, than the "why" of the problem being studied. The empirical information examined by a thorough questionnaire to all of the aforementioned functionaries is what the researcher would prefer to employ. A literature analysis and the findings of data collection using the survey method will be used to rate the data that is currently available on cyberbullying of youngsters.

✓ Also, the researcher will simultaneously adopt Exploratory research, as the area of interest has not been studied or thoroughly investigated in the past. Hence, to gain familiarity with an existing phenomenon and acquire new insight into it, to form a more precise problem with an intended outcome which will provide answers to questions like what, how and why of the study.

Therefore, the researcher will be relied upon the primary and secondary source for data collection in which various data collection methods are like case study, interview, reviewed journals, articles, newspaper, questionnaire.

Expected Outcome of the Research Work:

This research will provide some solution or suggest effective ways for the prevention of child cyber abuse.

TENTATIVE CHAPTERS:

1. Introduction

- Background and context of child cyber abuse
- Statement of the problem
- Review of Literature
- Research objectives
- Research questions
- Significance of the study
- Scope of research
- Overview of the research methodology

2. Historical Background

- Evolution of the concept of child abuse in India
- Child Abuse in Ancient Societies
- Child Abuse in Medieval Societies
- Child Abuse in Modern Societies
- Impact of Historical Factors on Child Abuse

3. Cyber Abuse and the Dark Side of Social Networking: Exploring the Risks

- Introduction to Cyber Abuse
- Types of Child Abuse
- Cyber Bullying: Types and Characteristics
- Aftereffects of Cyber Abuse on Child Victims
- Reasons for Targeting Children on Social Networking Sites

4. The Legal Framework for Child Protection in India

- Overview of the legal framework in India for child protection
- Analysis of relevant legislation related to child cyber abuse
- Evaluation of the effectiveness of current laws
- Identification of gaps and challenges in the legal framework

5. International Approaches to Child Cyber Protection

- Overview of international best practices and approaches
- Comparative analysis of policies and legislations in other countries

- Case studies of successful initiatives in combating child cyber abuse

6. Responding to Cyber Abuse: Law Enforcement and Support

- Reporting cyber abuse to law enforcement agencies
- Role of schools and educational institutions in addressing cyber abuse
- Support resources for child victims and their families

7. Strategies for Preventing and Responding to Cyber Abuse

- Digital literacy and online safety education
- Empowering children to protect themselves online
- Building resilience and promoting positive online behavior
- Collaboration between stakeholders: parents, educators, policymakers

8. Conclusion and Recommendations

- Summary of key findings
- Policy recommendations for strengthening child cyber abuse prevention and intervention
- Suggestions for awareness campaigns and educational initiatives
- Proposal for the implementation of the comprehensive legislation

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Proposed Month-wise plan of work and targets to be achieved:

S. No.	Activities	Months-Year																
		J-23*	F-23	M-23	A-23	M--23	June--23	July-23	Aug-23	Sep--23	Oct--23	Nov-23	Dec-23	Jan-24	--	--	--	--	D-24
1	Thesis Proposal defense			planned															
2	Extended Literature Review		Planned																
3	Questionnaire designing			planned															
4	Pilot testing and refinement of questionnaire				planned														
5	Data collection					planned													
9	Data preparation				Planned														
10	Data analysis & Results																		
11	Report writing: ……..		Planned																
12	Thesis Writing, Publications and Other Requirements													Planned					
13	Thesis Submission													Planned					